

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )  
 )  
Advanced Television Systems ) MM Docket No. 87-268  
and Their Impact Upon the )  
Existing Television Broadcast )  
Service )

To: The Commission

**COSMOS BROADCASTING CORPORATION'S**  
**REPLY TO ITS PETITION FOR PARTIAL RECONSIDERATION**

Cosmos Broadcasting Corporation ("Cosmos"), licensee of WFIE-TV, Evansville, Indiana, NTSC Channel 14 and DTV Channel 58, by its counsel, hereby replies to its Petition for Partial Reconsideration ("Petition") of the Commission's *Memorandum Opinion and Order on Reconsideration of the Fifth Report and Order and Sixth Report and Order* ("DTV Allotment MO&O") in the above-captioned proceeding. As shown herein, because Cosmo has addressed the Commission's criteria as to changes to the DTV Table of Allotments, WFIE-TV's DTV channel should be reallocated to Channel 46.

In its Petition, Cosmos requested, *inter alia*, that the Commission reconsider WFIE-TV's DTV allotment. Cosmos seeks reallocation from DTV Channel 58 to DTV Channel 46. In support of its request, Cosmos submitted an engineering analysis demonstrating that the interference resulting from the proposed DTV reallocation to Channel 46 would not be unacceptable. Negligible interference would be caused to three stations (none of which are short spaced to WFIE-TV): 0.2% of the population within the service area of WDCN-DT, Nashville,

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Tennessee; less than 0.01% of the service population of WHSL-TV, East St. Louis, Illinois; and less than 0.01% of the service population of WTHR-DT, Indianapolis, Indiana.

The Commission has clearly voiced its support for voluntary negotiations among broadcasters to develop alternative allotment/assignment plans.<sup>1/</sup> In considering specific plans, the Commission has stated that it will make changes to the DTV Table where:

- 1) All affected broadcasters agree to the revised plan;
- 2) The changes do not result in additional interference to other stations or allotments;
- 3) The changes do not propose allotments on Channels 60 - 69 or otherwise adversely affect the Commission's spectrum allocation efforts; and
- 4) The revised plan considers full accommodation to LPTV and TV translator stations.<sup>2/</sup>

Grant of Cosmos's request to operate off of DTV Channel 46 satisfies these considerations. As discussed above, interference resulting from the proposed DTV reallocation to Channel 46 would not be unacceptable. All affected broadcasters have been served with Cosmos's Petition and none of the parties have opposed the proposal to reallocate WFIE-TV's DTV Channel. The three NTSC allotments to which the proposed reallocation would be short-spaced are vacant and apparently unviable. Neither the Channel 46 commercial NTSC allotment in Paris, Illinois, nor the Channel 61 commercial NTSC allotment at Owensboro, Kentucky, has

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<sup>1/</sup> See *DTV Allotment MO&O* ¶ 187; *Advanced Television Systems and Their Impact Upon the Existing Television Broadcast Service*, Sixth Report and Order, 12 FCC Rcd 14588, 14667, 14671 (1997) ("*Sixth Report and Order*").

<sup>2/</sup> See *DTV Allotment MO&O* ¶ 187; *Sixth Report and Order*, 12 FCC Rcd at 14667, 14671.

any pending construction permits — they will be deleted.<sup>3/</sup> Ungranted construction permits are pending for NTSC Channel 48, Owensboro, Kentucky, but based upon the Commission's severely short-spaced DTV allotment to Bowling Green, Kentucky, those applicants appear not to have been accommodated. Cosmos's proposal also does not concern channels that affect the Commission's spectrum recovery goals. Finally, Cosmos's plan will not affect any currently licensed LPTV or TV translator stations. Given that Cosmos's proposal fulfills the Commission's requirements for revising the DTV Allotment Table, the Commission should grant Cosmos's request for reallocation to Channel 46.

In addition to addressing the Commission's standard for allotment changes, Cosmos's proposal resolves adjacent DTV channel problems with WEHT-DT, Evansville, Indiana, that would exist if WFIE-TV remained at DTV Channel 58.<sup>4/</sup> The Commission acknowledged the significance of adjacent channel problems in the *DTV Allotment MO&O*, with the severity identified only after petitions were filed in the initial round of reconsideration of the *Sixth Report and Order*.<sup>5/</sup> In the *DTV Allotment MO&O*, the Commission took a multifaceted approach in addressing the DTV adjacent channel problem, indicating that the best solution included "tightening the emissions mask, allowing flexibility in our licensing process and for modification of individual allotments in the DTV Table to encourage adjacent channel co-locations, and

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<sup>3/</sup> *Sixth Report and Order*, 12 FCC Rcd at 14639.

<sup>4/</sup> WEHT-DT was allotted Channel 59. *See DTV Allotment MO&O*, Appendix B.

<sup>5/</sup> *DTV Allotment MO&O* ¶¶ 88-92.

continued monitoring of this situation."<sup>6/</sup> Illustrating the seriousness of the matter, the Commission modified forty-two DTV allotments to resolve adjacent DTV channel problems.<sup>7/</sup>

Similar to the circumstances behind those forty-two modified DTV allotments, the balance of interests requires that the Commission grant WFIE-DT's requested reallocation to Channel 46. WFIE-DT's adjacent channel problem could be more reasonably tolerated if no viable solution existed, but this is not the case. Waiting until Cosmos has purchased dedicated equipment for its current DTV allotment and commenced operations to prove the existence of an already identified problem would result in unnecessary and sizable expense and delay, hindering the rapid roll-out of DTV service.

Commission grant of Cosmos's proposal would also eliminate the use of the out-of-core allotment of Channel 58 (and save relatively expensive relocation costs for the small market station).

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<sup>6/</sup> *Id.* ¶ 95.

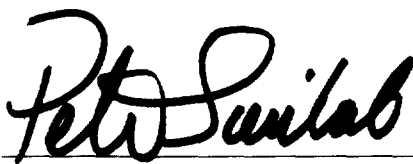
<sup>7/</sup> *Id.*

## CONCLUSION

Cosmos's proposal satisfies the Commission's criteria for granting reallocations. Its proposal also addresses adjacent channel problems which otherwise would hinder WFIE-TV's roll-out of DTV.<sup>8/</sup> For the foregoing reasons, Cosmos requests that the Commission revise the DTV Table to reallocate WFIE-DT from Channel 58 to Channel 46.

Respectfully submitted,

**COSMOS BROADCASTING CORPORATION**

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<sup>8/</sup> "Throughout this proceeding," the Commission said, "we have stated that we intend to provide broadcasters with the flexibility to develop alternative allotment approaches." *Id.* ¶ 187.

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing "Cosmos Broadcasting Corporation's Reply to its Petition for Partial Reconsideration" was sent by first-class United States mail, postage prepaid, this 5th day of June, 1998, to the following:

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